

CERTIFIED FOR PUBLICATION

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

HAROLD P. STURGEON,

Plaintiff and Appellant,

v.

COUNTY OF LOS ANGELES,

Defendant and Respondent.

D050832

(Super. Ct. No. BC351286)

[NO CHANGE IN JUDGMENT]

THE COURT:

The opinion filed October 10, 2008, is modified as follows:

1. At FACTUAL AND PROCEDURAL BACKGROUND, A. *Judicial Benefits Provided by County*, fourth paragraph beginning with "Finally" ending with "receive" (slip opn. p. 3): Replace entire paragraph with "The county will also match the contribution of each of its salaried employees to a '401(k)'[fn. 2] program up to four percent of his or her salary. In fiscal year 2007 this amounted to an additional \$6,880[fn. 3] the judges were eligible to receive. Finally, the record indicates that since July 1, 1997, the judges have also received employment benefits provided by the state."

2. At DISCUSSION IV, B. *Section 1241, 2. Express Language*, last paragraph, last sentence beginning with "However" ending with "(*Ibid.*)" (slip opn. p. 24): delete footnote 8 reference and footnote 8 text; renumber following footnotes accordingly

3. At DISCUSSION IV, B. *Section 1241, 3. Judicial Compensation*, middle of first paragraph (slip. opn. p. 25) change *Board of Supervisors* citation point page reference from "863" to "866"

4. At DISCUSSION IV, B. *Section 1241, 3. Judicial Compensation*, first paragraph, sentence beginning with "The 1988 enactment" ending with "Constitution.": insert footnote reference (slip. opn. p. 25); footnote text reads: "We also note the legislative history of section 1241 suggests the most immediate concern of the Legislature was application of the limitation on legislative compensation set forth in former article IV, section 4 of the Constitution. The limitation on legislative compensation was added to the Constitution in 1966 and was deleted from the Constitution in 1990."

5. At DISCUSSION IV, B. *Section 1241, 3. Judicial Compensation*, sixth paragraph, sentence beginning with "The first" ending with "Constitution." (slip opn. p. 28): insert footnote reference; footnote text reads: "We note that in 1972 the voters adopted Proposition 6, which added article III, section 4 to the Constitution. As initially adopted, article III, section 4, stated: 'Salaries of elected state officers may not be reduced during their term of office. Laws that set these salaries are appropriations.' In 1980 article III, section 4, was amended to permit the Legislature to terminate prospective, but unrealized, increases in salaries. Neither Sturgeon, nor the county, have

relied upon or briefed article III, section 4, and we express no opinion on it with respect to the issues raised in this appeal or that may be raised in the future, including the rights of others to intervene in this litigation."

6. At DISCUSSION IV, D. *Prescribed Compensation* (slip opn. p. 30), change discussion subtopic from letter D to C

7. At DISCUSSION IV, C. *Prescribed Compensation*, 2. *Constitutional Considerations*, first paragraph, sentence beginning with "In the interests" ending with "Legislature" (slip opn. p. 32): replace "entirely" with "largely"

8. At DISCUSSION IV, C. *Prescribed Compensation*, 2. *Constitutional Considerations*, first paragraph, sentence beginning with "Because" ending with "role" (slip opn. p. 32): replace "sole" with "principal"

9. At DISCUSSION IV, C. *Prescribed Compensation*, 2. *Constitutional Considerations*, first paragraph, sentence beginning with "Because" ending with "role" (slip opn. p. 32): insert footnote reference after "judicial branch,"; footnote reads: "See also article III, section four of the Constitution."

10. At DISCUSSION IV, C. *Prescribed Compensation*, 2. *Constitutional Considerations*, last paragraph, sentence beginning with "In particular" ending with "authorities." (slip opn. p. 33): replace the phrase "reductions in their compensation imposed" with "substantial variations in compensation determined"

11. At DISCUSSION IV, C. *Prescribed Compensation*, 3. *The County's Judicial Benefits*, fourth paragraph, sentence beginning with "Admittedly," ending with "procedures." (slip opn. p. 35): replace 698494.3 with 69894.3

12. At DISCUSSION IV, C. *Prescribed Compensation*, 3. *The County's Judicial Benefits*, between paragraph 4 ending with "so." and paragraph 5 beginning with "Because" (slip opn. p. 36): insert a new paragraph which reads: "Finally, we recognize a sufficient standard or safeguard may also be found in looking at the overall purposes of an enactment. (See *Carson Mobilehome Park Owners' Assn. v. City of Carson* (1983) 35 Cal.3d 184, 190; *Wilkinson v. Madera Community Hospital* (1983) 144 Cal.App.3d 436, 442.) By its terms Lockyer-Isenberg was enacted so that county contributions to trial court operations would be capped at the level provided in fiscal 1994-1995 and that thereafter increases in court expenses would be the responsibility of the state. The state's assumption of financial responsibility for increases in court operating expenses does not implicitly set any minimum or maximum level of additional benefits counties must provide their judges."

13. At DISCUSSION IV, C. *Prescribed Compensation*, 3. *The County's Judicial Benefits*, between the last paragraph of the opinion ending with "judgment." and the disposition "Judgment reversed" (slip opn. p. 37): insert a new heading and paragraph which reads:

"CONCLUSION

"As we have noted, there are valid reasons the county provides its judges with generous employment benefits beyond the employment benefits provided by the state. However, the defect we have found in the method by which those benefits have been provided is itself substantial and important. Under our constitutional scheme, judicial compensation is a matter of statewide concern and the Legislature must set policy with

respect to all aspects of judicial compensation. As the cases we have discussed demonstrate, the Legislature's obligation to 'prescribe judicial compensation' requires that it set forth standards or safeguards which assure that fundamental policy is implemented. The fact that the Legislature provided counties a credit for judicial benefits when it enacted Lockyer-Isenberg or that it assured the counties that judicial benefits would not be decreased as a result of trial court funding does not meet these requirements. The obligation is not onerous, but does require that the Legislature consider the specific issue and, at a minimum, establish or reference identifiable standards."

As modified, the petition for rehearing is denied.

The respective applications of the Los Angeles Superior Court, the Los Angeles County District Attorney, the Los Angeles County Public Defender, the California Judges Association and the Association of Southern California Defense Counsel to file amicus curiae briefs are denied. (Cal. Rules of Court, rule 8.200, (c)(1).)

There is no change in the judgment.

BENKE, Acting P. J.